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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

BRUNSWICK SURGICAL CENTER, LLP and
JERSEY AMBULATORY CENTER, LLC,

Case No. 09-cv-5857

Plaintiffs,

Civil Action

vs.

CIGNA CORPORATION and its subsidiaries
CIGNA HEALTHCARE OF NEW JERSEY
and CONNECTICUT GENERAL
LIFE INSURANCE COMPANY,

**PLAINTIFFS' STATEMENT
OF MATERIAL FACTS**

Defendants.

Plaintiffs, Brunswick Surgical Center LLP and Jersey Ambulatory Center LLC, in support of its rule 56 Motion for Summary Judgment, provide this Statement of Material Facts as follows:

1. The within dispute concerns the coverage interpretation of ERISA and non-ERISA health insurance policies. The Defendants are Insurance Carriers who are denying payment of facility fees to Plaintiffs who are single room ambulatory care centers.

2. The policy of the East Windsor Regional School District is representative of the contract language at issue in the within dispute concerning the coverage available under the various health insurance policies.

3. The Plaintiffs are a predecessor and successor single operating room ambulatory care center that are both Medicare certified and wholly owed by Dr. Alexander Levin, a Pain Management Physician.

4. Dr. Levin refers patients from his private medical practice to these entities in which he performs the surgical procedures.

5. The structure and function of this physician wholly owned ambulatory care center meets the definition of a surgical practice, as defined by *N.J.A.C. 8:43A* where no licensure by the New Jersey Department of Health and Senior Services is required and a separate facility fee may be charged.

6. The Doctor's profession fees and the anesthesia charges have been paid for all of the procedures for which a facility fee is sought by this litigation and until calendar year 2008, those facility fees also were being paid by the Defendants under the various health policies.

PACIFICO & LAWRENCE

By: s/ Gregory J. Lawrence
Gregory J. Lawrence (GL5668)

Dated: March 10, 2010